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10

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION  
14

15 **JAMES G. GARCIA,**

16 Plaintiff,

17 v.

18 **BEN CURRY, Warden, et al.,**

19 Defendants.  
20

C 07-6262 CRB (PR)

**DEFENDANT'S WAIVER OF  
REPLY AND DEMAND FOR  
JURY TRIAL**

21 Defendant Barker waives her right to reply to Plaintiff's complaint, and plans to file a  
22 responsive motion by September 2, 2008. (Order Granting Defendants' Motion for an Extension  
23 of Time to File a Dispositive Motion, July 9, 2008). Under the Prison Litigation Reform Act, a  
24 defendant in a prisoner suit may waive the right to reply without admitting the complaint's  
25 allegations. 42 U.S.C. § 1997(e)(g). The court may not grant the plaintiff any relief unless a  
26 reply has been filed. *Id.* And the court may order a defendant to file a reply only "if it finds that  
27 the plaintiff has a reasonable opportunity to prevail on the merits." *Id.*

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**DEMAND FOR JURY TRIAL**

Defendant Barker demands a trial by jury in this case.

Dated: July 29, 2008

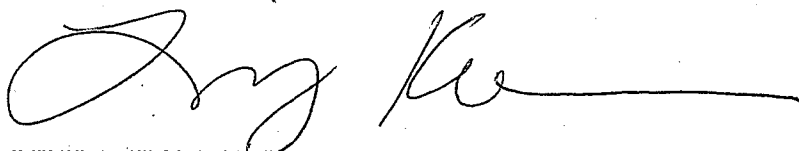
Respectfully submitted,

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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **J. G. Garcia v. B. Curry, et al.**

No.: **C 07-6262 CRB (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On July 29, 2008, I served the attached.

**DEFENDANT'S WAIVER OF REPLY AND DEMAND FOR JURY TRIAL**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**James G. Garcia, K-26584**  
**Ironwood State Prison**  
**P.O. Box 2229**  
**Blythe, CA 92226**  
*Pro Per*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 29, 2008, at San Francisco, California.

T. Oakes

Declarant

/s/ T. Oakes

Signature